

**EMPLOYMENT STANDARDS TRIBUNAL**

In the matter of an appeal pursuant to Section 112 of the

*Employment Standards Act* R.S.B.C. 1996, C.113

- by -

Rendezvous Restaurant Ltd.

(“Rendezvous Restaurant” or the “Employer”)

- of a Determination issued by -

The Director of Employment Standards

(the "Director")

**ADJUDICATOR:** Jean M. Greatbatch

**FILE No.:** 2000/642

**DATE OF HEARING:** December 19, 2000

**DATE OF DECISION:** January 02, 2001

## DECISION

### APPEARANCES:

Mr. David Redekop

on behalf of himself

### OVERVIEW

This is an appeal by the Employer pursuant to Section 112 of the *Employment Standards Act* (the “Act”) against a Determination of the Director of Employment Standards (the “Director”) issued on August 23, 2000. The Determination found that Mr. Redekop was owed \$942.44 as compensation for overtime, vacation pay and compensation for length of service.

### ISSUE

The Employer takes issue with the delegate’s conclusion that the employee was not terminated for just cause, and disputes the number of hours overtime that the employee claimed.

### THE FACTS AND ANALYSIS

Although the Employer submitted notarized statements with his appeal which contained information from Mr. Redekop’s coworkers about his work performance problems, these statements did not contain any evidence that progressive discipline had been followed. The statements failed to show that the employee had been warned that his unsatisfactory work performance would result in dismissal if not corrected. Therefore the Employer failed to provide written evidence of just cause for dismissal.

As well, the Employer failed to provide any written evidence from any eye-witness who could verify the hours worked by Mr Redekop. No records of hours worked by the employee were kept. A letter from the Employer’s accountant was attached to the Appeal. This letter was considered by the Delegate in making his decision. The letter contains a reference to what the accountant was told by the Employer, not what she herself witnessed.

A hearing was held on December 19, 2000. Rendezvous Restaurant, the appellant in this matter, has the burden to prove the Determination wrong. The Employer and his legal counsel were duly notified of the hearing date yet failed to appear.

I consider that the appeal has been abandoned and dismiss it.

**ORDER**

Pursuant to Section 115 of the Act, I order that the Determination in this matter, dated August 23, 2000, be confirmed.

***JEAN M. GREATBATCH***

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**Jean M. Greatbatch  
Adjudicator  
Employment Standards Tribunal**